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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM JESS FOUST,

Defendant and Appellant.

D043749

(Super. Ct. No. SCE228300)

APPEAL from a judgment of the Superior Court of San Diego County, Eddie C. Sturgeon, Judge. Affirmed.

A jury convicted William Jess Foust of possessing a firearm as a felon. (Pen. Code, § 12021, subd. (a)(1).)¹ In a bifurcated hearing the court found he had three prior strikes (§§ 667, subds. (b)-(i), 1170.12, 668) and served one prior prison term (§§ 667.5,

¹ All statutory references are to the Penal Code unless otherwise indicated.

subd. (b), 668). The court denied a motion to strike the prior strikes and sentenced Foust to prison for 26 years to life: 25 years to life for possessing a firearm as a felon with two prior strikes, enhanced one year for the prior prison term.

FACTS

On February 17, 2003, Foust met Doreen Bratten and Pedro Gomez in a Vons market parking lot to buy drugs. According to Foust, he had a shotgun to trade for the drugs. The gun accidentally fired and Bratten was hit in the leg. Foust admitted he has prior felony convictions. The court found he has three strike priors.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues : (1) whether the trial court abused its discretion in denying Foust's motion to strike the prior strikes; and (2) whether the sentence is cruel and unusual punishment.

We granted Foust permission to file a brief on his own behalf. He has not responded. A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*,

386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Foust on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, J.

WE CONCUR:

HUFFMAN, Acting P. J.

McINTYRE, J.